IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.SASIDHARAN NAMBIAR

FRIDAY, THE 15TH DECEMBER 2006 / 24TH AGRAHAYANA 1928

WP(C).No. 29095 of 2006(L)

OS.35/1997 of SUB COURT, OTTAPPALAM

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PETITIONER:

RAMACHANRAN,
S/O.VELLALATH LAKSHMI KUTTY AMMA,
CHALAVARA AMSOM AND DESOM,
OTTAPALAM TALUK.

BY ADV. SRI.SANTHEEP ANKARATH

RESPONDENTS:

JAYARAJAN, S/O.VELLARAMKALLIL
THATTAN PRABHAKARAN, CHALAVARA AMSOM AND
DESOM, OTTAPALAM TALUK.

BY ADV. SRI.E.R.VENKATESWARAN

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 15/12/2006, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITINER'S EXHIBITS

EXT.P1: TRUE COPY OF COUNTER STATEMENT DATED 7.1.06.

EXT.P2: TRUE COPY OF SALE PAPERS FILED BY DECREE HOLDER DATED 16.3.06.

EXT.P3: TRUE COPY OF OBJECTION DATED 3.7.06.

EXT.P4: TRUE COPY OF PETITION AND AFFIDAVIT DATED 3.7.06 AS E.A.241/06 IN E.P.78/05.

EXT.P5: TRUE COPY OF ORDER DATED 23.8.06 IN E.A.241/06 IN E.P.78/05 IN O.S.35/97 BY SUB COURT, OTTAPALAM.

EXT.P6: TRUE COPY OF AFFIDAVIT IN SUPPORT OF PETITION DATED 23.9.06 AS E.A.362/06

EXT.P7: TRUE COPY OF COUNTER DATED 2.10.06.

EXT.P8: TRUE COPY OF PETITION AND ORDER DATED 3.10.06 IN E.A.369/06 IN E.P.78/05 IN O.S.35/97 BY SUB COURT, OTTAPALAM.

/TRUE COPY/

PA TO JUDGE.

M.SASIDHARAN NAMBIAR,J.

---------- W.P.(C)NO.29095 OF 2006 ----------

DATED THIS THE 15th DAY OF DECEMBER, 2006

JUDGMENT

This petition is filed under Article 227 of Constitution of India challenging the direction of executing Court to sell eight cents of property belonging to petitioner for realisation of the decree debt. As per order dated 7.11.06, this Court directed adjournment of the sale on petitioner depositing Rs.10,000/- within two weeks from that date before the executing Court.

2. Learned Counsel appearing for petitioner submitted that before the amount could be deposited, property was sold and an application was filed before the executing Court under Rule 90 of Order XXI to set aside the sale. Petitioner is entitled to raise the contentions raised herein, in that application with that liberty petition is dismissed.

M.SASIDHARAN NAMBIAR,JUDGE

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